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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,115	11/18/2003	Sarkis Tokatlian	32406-198948	3992
26694	7590	03/23/2005	EXAMINER	
VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP P.O. BOX 34385 WASHINGTON, DC 20043-9998			LEWIS, AARON J	
			ART UNIT	PAPER NUMBER
			3743	

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/715,115		TOKATLIAN, SARKIS	
	<b>Examiner</b>		<b>Art Unit</b>	
	AARON J. LEWIS		3743	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 December 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 9-11 and 15-17 is/are rejected.
- 7) ☒ Claim(s) 4-8 and 12-14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/2/05</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3,9,10,15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taelman (WO 97/10991) in view of Berge ('145) and Diggs ('201).

As to claim 1, Taelman discloses a sub-aqua breathing system comprising a housing (11) configured, in use, to float on the surface of a body of water (fig.1), said housing containing buoyant material (page 6, lines 3-4 of the Description of the Preferred Embodiment) and a compressed air tank (12) connectable to an air line (13) feeding a mouthpiece regulator (19).

The differences between Taelman and claim 1 are the tank being toroidal in shape and the housing includes a storage compartment for retaining at least one air line therein and means for deploying said at least one air line from said compartment when the system is used.

Berge, in a sub-aqua breathing system teaches an air tank (1) which is toroidal in shape.

It would have been obvious to modify the shape of the air tank of Taelman to be toroidal in shape because it would have provided it with a nautical shape thereby making it easier to notice on the surface of the water as a piece of underwater breathing

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equipment and because it would have made the air tank easier to carry for a diver as taught by Berge.

Diggs, in a sub-aqua breathing system teaches a housing (25) having a storage compartment (reel 26) for retaining at least one air line (21) therein and means (33,34) for deploying said at least one air line from said compartment when the system is used for the purpose of storing an air line of sufficient length to allow deep diving and for the purpose of providing safe storage of un-used portions of the air line during use and safe storage of all of the air line when the device is not in use.

It would have been obvious to modify the sub-aqua breathing system of Taelman to include a storage compartment for retaining at least one air line and including means for deploying the air line because it would have provided a means for storing enough length of air line to allow for deeper diving and because it would have provided a means for safe storage of un-used portions of the air line during use and safe storage of the air line when the device is not in use as taught by Diggs.

As to claim 2, Diggs (fig.1) teaches said means is operable to partially deploy said at least one air line from the housing when the system is used.

As to claim 3, Taelman (figs.2,3) as modified by Berge teach the buoyant material is disposed regions around the periphery of the toroidal compressed air tank.

As to claim 9, Taelman as modified by Berge and Diggs teach at least one air line coiled within the storage compartment (fig.3 of Diggs), each air line having one end connected, via an air flow control valve (18 of Taelman), to the toroidal compressed air tank.

As to claim 10, Taelman discloses a removable cover (23) being mounted on the housing to provide access to the interior thereof.

As to claim 15, the housing of Taelman as modified by Berge teach the housing has a discus-like shape.

As to claim 16, while Taelman as modified by Berge and Diggs do not expressly disclose a light mounted on the housing, official notice is taken that the use of visual indicators mounted on the housing of sub-aqua breathing systems including lights is a well known expedient for the purpose of providing a visual indicator of diver location as such would have been obvious to include such in Taelman. Exemplary evidence of indicators mounted on sub-aqua breathing systems is illustrated by the use of a diving pennant in Miller ('849).

As to claim 17, any air trapped between the tank (12) and the float (11) in Taelman would provide additional buoyancy thereto.

3. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taelman in view of Berge and Diggs as applied to claims 1-3,9,10,15-17 above, and further in view of Miller ('849).

The difference between Taelman as modified by Berge and Diggs and claim 11 is a mast with a diving pennant attached thereto.

Miller, in a sub-aqua breathing system, teaches a diving pennant (24) attached to the housing for the purpose of indicating the location of divers.

It would have been obvious to further modify Taelman to include a diving pennant attached to the housing because it would have indicated the location of divers as taught by Miller.

***Allowable Subject Matter***

4. Claims 4-8, 12-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

5. Applicant's arguments filed 12/20/2004 have been fully considered but they are not persuasive. Applicant's arguments that the combination of Taelman and Berge is not proper because the shape would not be evident to the casual observer is not persuasive. Taelman (fig.1) illustrates a floating air reservoir (12) for a plurality of submerged divers. The floating air reservoir of Taelman is unattended and to reduce the chances of being run over by boat or picked up as floating debris, it would have been obvious to modify the shape of the reservoir to provide it with a more nautical shape thereby making it clear to boaters on the surface that it is more than just debris. An additional reason for modification of the shape of the tank of Taelman to make it toroidal would be to provide a tank of a smaller size to provide air reservoir for a single diver as illustrated in Berge rather than a plurality of divers.

Applicant's argument that Taelman as modified by Diggs lacks a compartment is not persuasive. The reel of Diggs constitutes a compartment for the storage of conduit.

Claim 1 merely recites a storage compartment, it does not define the structure of the storage compartment in any manner which is unobvious over that of the reel of Diggs.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

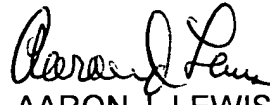
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AARON J. LEWIS whose telephone number is (571) 272-4795. The examiner can normally be reached on 9:30AM-6:00PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HENRY A. BENNETT can be reached on (571) 272-4791. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
AARON J. LEWIS  
Primary Examiner  
Art Unit 3743

Aaron J. Lewis  
March 21, 2005